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No. -

IN THE

Supreme Court of the United States

OCTOBER TERM, 1986

In the Matter of the Estate of
WILLIAM KUNTZ

WILLIAM KUNTZ, III

—v.—

WINTERS NATIONAL BANK AND TRUST COMPANY,
ET AL.

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE SECOND DISTRICT—MONTGOMERY COUNTY, OHIO

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QUESTIONS PRESENTED FOR REVIEW

1. That the appellant, here petitioner William Kuntz III, a beneficiary to the estate and the displaced co-executor has preserved his rights as to the adverse decisions of the probate court by appeals of those adverse decisions and is thus not barred from the relitigation of any proper claim in federal court.

2. That the appellant, here petitioner William Kuntz III, is not conclusively bound by the decision of the state probate court as to federal estate tax controversy where such decisions have been obtained by the fraud and collusion of the defendant(s), TRUSTEE, WINTERS NATIONAL BANK AND TRUST COMPANY together with others.

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TABLE OF AUTHORITIES

Commissioner of Internal Revenue, Petitioner v. Estate of Herman Bosch, Deceased 387 US 456, 18 L.Ed.2d 886, 87 S.Ct.1776 .....

Federated Department Stores, Inc., et al., Petitioners v. Marilyn Moitie and Floyd R. Brown, Etc. 452 U.S. 394, 69 L.Ed. 103, 101 S.Ct.2424 .....

Second National Bank of New Haven, Petitioner v. United States, 387 US 456, 18 L.Ed. 886, 87 S.Ct.1776 .....

STATEMENT OF GROUNDS FOR JURISDICTION

1. The decision of the Probate Court rendered on 19th of May, 1983 which will be included in the supplemental index.

2. The decision for the Court of Appeals rendered on the 26th of July, 1986 which will be included in the supplemental index.

3. The decision of the Supreme Court of Ohio declining jurisdiction rendered on October 1, 1986 which will be included in the supplemental appendix.

STATUTORY PROVISIONS

Internal Revenue Code

PRECEDENT CASE LAW

Erie R. Co. v. Tompkins 301 F.2d 231.

STATEMENT OF THE CASE

This is the second petition for a writ of certiorari from the administration of the estate of William Kuntz, Sr. late of Dayton Ohio, the first being 465 U.S. 1080, 79 L.Ed.2d 763, 104 S.Ct.1443 rehearing denied 467 U.S. 1257, June, 1984. The appeal stems from the second accounting of the present administrator, Winters National Bank and Trust Company to the Probate Court of Montgomery County, Ohio, In that accounting: the administrator sets forth tax payments of some $500,000, fee payments to itself and others of some $100,000 and sales of shares of closely held stock of the Peter Kuntz Company of Dayton Ohio and its subsidiaries without appraisal.

It is admitted by direct testimony in a hearing before a visiting judge that there were more favorable tax treatments available to the estate than those used by the administrator, Winters National Bank and Trust Company, which would have reduced the federal estate tax by a considerable amount.

It was further admitted that the fee's submitted and approved by the now retired probate judge was done on the same day and without notice of any kind.

It was further put into evidence that shares of stock in the estate were sold without appraisal back to the Peter Kuntz Company for whom the other co-executor, now resigned, in favor of Winters National Bank and Trust Company, was employed.

It was admitted that the estate of William Kuntz, Sr. did own the single largest block of stock of the common shares of the Peter Kuntz Company.

It was established that the valuable residential real estate of the deceased was sold on the first offer, accepted in one day and that the estate accepted a mortgage at a low rate of interest.

It was presented that a large portfolio of tax exempt bonds was sold at well below face value.

It was established that the trustee-administrator lent funds held in trusts for the payment of federal estate taxes to the estate for the payment of it's fees and the fees of it's counsel among others.

It was established that the trustee-administrator together with counsel for the trustee-administrator did participate in the sale of the mortgage company and saving and loan of whom the deceased was chairman, at a loss to the estate and the Peter Kuntz Company, and that included in the sharing of some $13,000,000 in wire transfer payments of loan payments from The Third National Bank And Trust Company.

ARGUMENT

The petitioner for certiorari should be granted on a basis of individual justice. In preparing for the filing of the petition I, William Kuntz III, did review the index of cases of the Supreme Court from the early 1920's through the present and with care those cases involving succession and estate taxes. It is quite clear that the court no longer cares to hear probate matters to any great extent with the recent exception of the estate of Howard Hughes.

Civil and criminal rights have for the most taken the docket of court and in effect left little consideration for property rights and even less for those who might obtain property by inheritance.

This may be property so, even our constitution speaks to the distaste for foreign titles of nobility, which brings to mind vast transactions, keeping segments of the populace aloof from the general public.

This is not yet a tax case, petitioner does not complain of the conduct of the government in collection of estate tax, even though the tax rate on this estate is the highest in the last several years. His complaint is directed to the conduct of the trustee, a national bank, whose charter and trust powers flow from the federal government.

Petitioner has complained that the trustee has ordered the affairs of this estate to suit its goals, for it's ease of administration. When confronted with the direct question as to tax *overpayment* the response goes "Oh, well we were too late to correct that" not too late to collect $100,000 in fees for itself and the cronies however.

It is not too hard to comprehend that a large national bank whose business in part is to administrate large numbers of estates has a great deal of influence in the probate court, much more that those who only have one or two matters come to court in a lifetime, thus mischief is given root and as in this case

gives rise to an unaltered mind-set that the affairs of estates may be ordered to gain a profitable business for the bank, further that a probate bar will be nurtured and rush to curry favor of the bank doing what a general practitioner would avoid. Those charged in the federal government with overseeing the conduct of banks and correcting the wrongdoings that exist are so cozy with their charges that all they presently seem to do is keep count of the banks that fail, and employ large numbers of signpainters to reletter signs of failed institutions to newer institutions which in turn wait their own demise.

The precept of integrity and prudent administration seems to have been lost, the court may take notice that the Peter Kuntz Company of Dayton, Ohio of which the bulk of the estate was retained in the form of common stock has now failed and gone into liquidation at an almost total loss to appellant.

What petitioner seeks is the just remand and review of the conduct of the trustee-administrator and the chance to recover a substantial overpayment of federal estate tax without further delay.

Respectfully submitted,

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Pro Se

Albany, New York
December 29, 1986